

JS 44 (Rev. 12/07, NJ 5/08)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS**GEORGE LEEDS**

(b) County of Residence of First Listed Plaintiff _____

(c) Attorney's (Firm Name, Address, Telephone Number and Email Address)

Craig Thor Kimmel, Esquire
Kimmel & Silverman, P.C.
30 E. Butler Pike
Ambler, PA 19002
(215) 540-8888

DEFENDANTS**PORTFOLIO RECOVERY ASSOCIATES, LLC**

County of Residence of First Listed Defendant _____

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

Attorneys (If Known) _____

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input checked="" type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes

V. ORIGIN

(Place an "X" in One Box Only)

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify) ☐ 6 Multidistrict Litigation ☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

15 U.S.C. Section 1692

Brief description of cause:

Fair Debt Collection Practices Act

VII. REQUESTED IN COMPLAINT:☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$ _____

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No**VIII. RELATED CASE(S)**

(See instructions):

JUDGE _____

DOCKET NUMBER _____

Explanation:

3/22/2010

/s/ Craig Thor Kimmel

DATE

SIGNATURE OF ATTORNEY OF RECORD

UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF PENNSYLVANIA — DESIGNATION FORM to be used by counsel to indicate the category of the case for the purpose of assignment to appropriate calendar.

Address of Plaintiff: 784 Hilltop Drive, Mount Joy, PA 17552

Address of Defendant: 120 Corporate Boulevard, Norfolk, VA 23502

Place of Accident, Incident or Transaction: 784 Hilltop Drive, Mount Joy, PA 17552
(Use Reverse Side For Additional Space)

Does this civil action involve a nongovernmental corporate party with any parent corporation and any publicly held corporation owning 10% or more of its stock?

(Attach two copies of the Disclosure Statement Form in accordance with Fed.R.Civ.P. 7.1(a))

Yes ☐ No ☒

Does this case involve multidistrict litigation possibilities?

Yes ☐ No ☒

RELATED CASE, IF ANY:

Case Number: _____ Judge _____ Date Terminated: _____

Civil cases are deemed related when yes is answered to any of the following questions:

1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court?
Yes ☐ No ☒
2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court?
Yes ☐ No ☒
3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action in this court?
Yes ☐ No ☒
4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual?
Yes ☐ No ☒

CIVIL: (Place ☒ in ONE CATEGORY ONLY)

A. Federal Question Cases:

1. ☐ Indemnity Contract, Marine Contract, and All Other Contracts
2. ☐ FEELA
3. ☐ Jones Act-Personal Injury
4. ☐ Antitrust
5. ☐ Patent
6. ☐ Labor-Management Relations
7. ☐ Civil Rights
8. ☐ Habeas Corpus
9. ☐ Securities Act(s) Cases
10. ☐ Social Security Review Cases
11. ☒ All other Federal Question Cases 15 U.S.C. § 1692
(Please specify)

B. Diversity Jurisdiction Cases:

1. ☐ Insurance Contract and Other Contracts
2. ☐ Airplane Personal Injury
3. ☐ Assault, Defamation
4. ☐ Marine Personal Injury
5. ☐ Motor Vehicle Personal Injury
6. ☐ Other Personal Injury (Please specify)
7. ☐ Products Liability
8. ☐ Products Liability — Asbestos
9. ☐ All other Diversity Cases
(Please specify)

ARBITRATION CERTIFICATION

(Check Appropriate Category)

I, Craig Ther Kimmel, counsel of record do hereby certify:

☐ Pursuant to Local Civil Rule 53.2, Section 3(c)(2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs;

☐ Relief other than monetary damages is sought.

DATE: 3/22/2010

Craig Ther Kimmel
Attorney-at-Law

57100
Attorney I.D.#

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

I certify that, to my knowledge, the within case is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: 3/22/2010

Craig Ther Kimmel
Attorney-at-Law

57100
Attorney I.D.#

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

CASE MANAGEMENT TRACK DESIGNATION FORM

George Leeds : CIVIL ACTION
v. :
Portfolio Recovery Associates, LLC : NO.

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a Case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a Case Management Track Designation Form specifying the track to which that defendant believes the case should be assigned.

SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:

- (a) Habeas Corpus – Cases brought under 28 U.S.C. § 2241 through § 2255. ()
- (b) Social Security – Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits. ()
- (c) Arbitration – Cases required to be designated for arbitration under Local Civil Rule 53.2. ()
- (d) Asbestos – Cases involving claims for personal injury or property damage from exposure to asbestos. ()
- (e) Special Management – Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) ()
- (f) Standard Management – Cases that do not fall into any one of the other tracks. (X)

<u>3/22/2010</u> Date	<u>Craig Thor Kimmel</u> Attorney-at-law	<u>George Leeds</u> Attorney for
<u>(215) 540-8888</u> Telephone	<u>(215) 540-8817</u> FAX Number	<u>Kimmel@creditlaw.com</u> E-Mail Address

1 **UNITED STATES DISTRICT COURT**
2 **FOR THE**
3 **EASTERN DISTRICT OF PENNSYLVANIA**

4 GEORGE LEEDS,)
 Plaintiff,)
5)
 v.)
6)
7 PORTFOLIO RECOVERY ASSOCIATES,)
 LLC,)
 Defendant)
8)
) **(Unlawful Debt Collection Practices)**

9
10 **COMPLAINT**

11 GEORGE LEEDS ("Plaintiff"), by his attorneys, KIMMEL & SILVERMAN, P.C.,
12 alleges the following against PORTFOLIO RECOVERY ASSOCIATES, LLC ("Defendant"):

13 **INTRODUCTION**

14 1. Count I of Plaintiff's Complaint is based on the Fair Debt Collection Practices Act,
15 15 U.S.C. § 1692 *et seq.* ("FDCPA").

16 **JURISDICTION AND VENUE**

17 2. Jurisdiction of this court arises pursuant to 15 U.S.C. § 1692k(d), which states that
18 such actions may be brought and heard before "any appropriate United States district court
19 without regard to the amount in controversy," and 28 U.S.C. § 1367 grants this court
20 supplemental jurisdiction over the state claims contained therein.

21 3. Defendant conducts business in the State of Pennsylvania, and as such, personal
22 jurisdiction is established.

23 4. Venue is proper pursuant to 28 U.S.C. § 1391(b)(1).

24 5. Declaratory relief is available pursuant to 28 U.S.C. §§ 2201 and 2202.
25

PARTIES

6. Plaintiff is a natural person residing at 784 Hilltop Drive, Mount Joy, Pennsylvania 17552.

7. At all relevant times, Plaintiff was a “consumer” as that term is defined by 15 U.S.C. §1692a(3).

8. Defendant is a debt collection company with its principal place of business located at 120 Corporate Boulevard, Norfolk, Virginia 23502.

9. Defendant is a debt collector as that term is defined by 15 U.S.C. § 1692a(6), and sought to collect a consumer debt from Plaintiff.

10. Defendant acted through its agents, employees, officers, members, directors, heirs, successors, assigns, principals, trustees, sureties, subrogees, representatives, and insurers.

PRELIMINARY STATEMENT

11. The Fair Debt Collection Practices Act (“FDCPA”) is a comprehensive statute, which prohibits a catalog of activities in connection with the collection of debts by third parties. *See* 15 U.S.C. § 1692 *et seq.* The FDCPA imposes civil liability on any person or entity that violates its provisions, and establishes general standards of debt collector conduct, defines abuse, and provides for specific consumer rights. 15 U.S.C. § 1692k. The operative provisions of the FDCPA declare certain rights to be provided to or claimed by debtors, forbid deceitful and misleading practices, prohibit harassing and abusive tactics, and proscribe unfair or unconscionable conduct, both generally and in a specific list of disapproved practices.

12. In particular, the FDCPA broadly enumerates several practices considered contrary to its stated purpose, and forbids debt collectors from taking such action. The substantive heart of the FDCPA lies in three broad prohibitions. First, a “debt collector may not engage in any

1 conduct the natural consequence of which is to harass, oppress, or abuse any person in
2 connection with the collection of a debt.” 15 U.S.C. § 1692d. Second, a “debt collector may not
3 use any false, deceptive, or misleading representation or means in connection with the collection
4 of any debt.” 15 U.S.C. § 1692e. And third, a “debt collector may not use unfair or
5 unconscionable means to collect or attempt to collect any debt.” 15 U.S.C. § 1692f. The
6 FDCPA is designed to protect consumers from unscrupulous collectors, whether or not there
7 exists a valid debt, broadly prohibits unfair or unconscionable collection methods, conduct which
8 harasses, oppresses or abuses any debtor, and any false, deceptive or misleading statements in
9 connection with the collection of a debt.

10 13. In enacting the FDCPA, the United States Congress found that “[t]here is abundant
11 evidence of the use of abusive, deceptive, and unfair debt collection practices by many debt
12 collectors,” which “contribute to the number of personal bankruptcies, to marital instability, to
13 the loss of jobs, and to invasions of individual privacy.” 15 U.S.C. § 1692a. Congress
14 additionally found existing laws and procedures for redressing debt collection injuries to be
15 inadequate to protect consumers. 15 U.S.C. § 1692b.

16 14. Congress enacted the FDCPA to regulate the collection of consumer debts by debt
17 collectors. The express purposes of the FDCPA are to “eliminate abusive debt collection
18 practices by debt collectors, to insure that debt collectors who refrain from using abusive debt
19 collection practices are not competitively disadvantaged, and to promote consistent State action
20 to protect consumers against debt collection abuses.” 15 U.S.C. § 1692e.

21 22 **FACTUAL ALLEGATIONS**

23 15. Defendant was hired to collect an alleged debt owed to Chevy Chase Bank.

24 16. The alleged debt at issue arose out of transactions, which were primarily for personal,
25 family or household purposes.

1 17. Defendant and others it retained began in 2008 through February 2010 to constantly
2 and continuously place automated harassing and abusive collection calls to Plaintiff seeking and
3 demanding payment for an alleged consumer debt.

4 18. Plaintiff disputed owing the alleged debt; however, Defendant still contacted him in
5 its efforts to collect the alleged debt.

6 19. Plaintiff instructed Defendant to stop contacting him on his home telephone; despite
7 Plaintiff's instructions, Defendant continued to contact him on his home telephone.

8 20. From 2008 to 2010, Defendant contacted Plaintiff on his home telephone at least four
9 (4) to five (5) times a week, with some of the calls being placed on weekends, which were
10 inconvenient for Plaintiff, and causing Plaintiff to receive over twenty (20) collection calls a
11 month.

12 21. In those instances where Plaintiff spoke with Defendant's agent/employee, the
13 agent/employee used abusive language in attempting to coerce Plaintiff into making a payment.

14 22. On one occasion in particular, Defendant's agent/employer called Plaintiff a "liar"
15 and a "deadbeat," attacking Plaintiff personally.

16 23. In those instances where Plaintiff's wife answered the phone, Defendant caused her
17 to believe that it was a friend of Plaintiff was on the phone.

18 24. Also, Defendant threatened Plaintiff with legal action if he did not pay the disputed
19 amount.

20 25. Defendant improperly stated that Plaintiff's nonpayment of the disputed debt was
21 criminal, impliedly threatening incarceration, if Plaintiff did not pay the disputed amount.

22 26. Most recently, on February 1, 2010, when Defendant contacted Plaintiff, it told him
23 that they "had to make a decision on this account today," and wanted him to work with them
24 over the phone.
25

1 27. Then, on February 5, 2010, when Defendant contacted Plaintiff, it told him that, "the
2 conversation is being recorded," which was intimidating to Plaintiff.

3 28. Furthermore, Defendant failed to provide Plaintiff with written notice within five (5)
4 days after its initial communication with him regarding collection of the alleged debt, advising
5 him of his right to dispute the debt and/or request validation.
6

7 **CONSTRUCTION OF APPLICABLE LAW**

8 29. The FDCPA is a strict liability statute. *Taylor v. Perrin, Landry, deLaunay &*
9 *Durand*, 103 F.3d 1232 (5th Cir. 1997). "Because the Act imposes strict liability, a consumer
10 need not show intentional conduct by the debt collector to be entitled to damages." *Russell v.*
11 *Equifax A.R.S.*, 74 F. 3d 30 (2d Cir. 1996); *see also Gearing v. Check Brokerage Corp.*, 233 F.3d
12 469 (7th Cir. 2000) (holding unintentional misrepresentation of debt collector's legal status
13 violated FDCPA); *Clomon v. Jackson*, 988 F. 2d 1314 (2d Cir. 1993).

14 30. The FDCPA is a remedial statute, and therefore must be construed liberally in favor
15 of the debtor. *Sprinkle v. SB&C Ltd.*, 472 F. Supp. 2d 1235 (W.D. Wash. 2006). The remedial
16 nature of the FDCPA requires that courts interpret it liberally. *Clark v. Capital Credit &*
17 *Collection Services, Inc.*, 460 F. 3d 1162 (9th Cir. 2006). "Because the FDCPA, like the Truth in
18 Lending Act (TILA) 15 U.S.C §§1601 *et seq.*, is a remedial statute, it should be construed
19 liberally in favor of the consumer." *Johnson v. Riddle*, 305 F. 3d 1107 (10th Cir. 2002).

20 31. The FDCPA is to be interpreted in accordance with the "least sophisticated"
21 consumer standard. *See Jeter v. Credit Bureau, Inc.*, 760 F.2d 1168 (11th Cir. 1985); *Graziano*
22 *v. Harrison*, 950 F. 2d 107 (3d Cir. 1991); *Swanson v. Southern Oregon Credit Service, Inc.*, 869
23 F.2d 1222 (9th Cir. 1988). The FDCPA was not "made for the protection of experts, but for the
24 public - that vast multitude which includes the ignorant, the unthinking, and the credulous, and
25 the fact that a false statement may be obviously false to those who are trained and experienced
does not change its character, nor take away its power to deceive others less experienced." *Id.*

1 The least sophisticated consumer standard serves a dual purpose in that it ensures protection of
2 all consumers, even naive and trusting, against deceptive collection practices, and protects
3 collectors against liability for bizarre or idiosyncratic interpretations of collection notices.
4 *Clomon*, 988 F. 2d at 1318.

5
6 **COUNT I**
7 **DEFENDANT VIOLATED THE**
8 **FAIR DEBT COLLECTION PRACTICES ACT**

9 32. Defendant violated the FDCPA based on the following conduct:

- 10 a) Communicating with Plaintiff in connection with the collection of a debt at times
11 and places known or which should be known to be inconvenient to Plaintiff, in
12 violation of 15 U.S.C. § 1692c(a)(1);
- 13 b) Harassing, oppressing, or abusing Plaintiff in connection with the collection of a
14 debt, in violation of 15 U.S.C. § 1692d;
- 15 c) Using obscene or profane language or language the natural consequence of which
16 is to abuse the hearer or reader, in violation of 15 U.S.C. § 1692d(2);
- 17 d) Causing a telephone to ring or engaging any person in telephone conversation
18 repeatedly or continuously with intent to annoy, abuse, or harass any person at the
19 called number, in violation of 15 U.S.C. § 1692d(5);
- 20 e) Using false, deceptive or misleading representations or means in connection with
21 the collection of any debt, in violation of 15 U.S.C. § 1692e;
- 22 f) False representation of the amount of the debt, in violation of 15 U.S.C. §
23 1692e(2);
- 24 g) Representation or implication that nonpayment of a debt will result in the arrest or
25 imprisonment of a person

- h) Misrepresenting or implying that nonpayment of any debt will result in arrest or imprisonment of Petitioner, in violation of 15 U.S.C. § 1692e(4);
- i) Threatening to take action that cannot legally be taken or that is not intended to be taken, in violation of 15 U.S.C. § 1692e (5);
- j) Using false representations or deceptive means to collect or attempt to collect a debt or to obtain information about a consumer, in violation of 15 U.S.C. § 1692e(10);
- k) Using unfair or unconscionable means to collect or attempt to collect any debt, in violation of 15 U.S.C. §1692f;
- l) The collection of amounts expressly not permitted by law in violation of 15 U.S.C. §1692f(1); and
- m) Failing to send written notice of the alleged debt, in accordance with 15 U.S.C. §1692(g)(a).

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, GEORGE LEEDS, respectfully prays for a judgment as follows:

- a. Declaratory judgment that Defendant's conduct violated the FDCPA;
- b. All actual compensatory damages suffered pursuant to 15 U.S.C. § 1692k(a)(1);
- c. Statutory damages of \$1,000.00 for each violation of the FDCPA pursuant to 15 U.S.C. § 1692k(a)(2)(A);
- d. All reasonable attorneys' fees, witness fees, court costs and other litigation costs incurred by Plaintiff pursuant to 15 U.S.C. § 1692k(a)(3); and
- e. Any other relief deemed appropriate by this Honorable Court.

JURY DEMAND

Pursuant to Civil Rule 38, Plaintiff hereby demands a trial by jury on all issues in this action, and any issues relating to the amount of attorneys' fees and litigation costs to be awarded should Plaintiff prevail on any of her claims in this action.

RESPECTFULLY SUBMITTED,

DATED: March 22, 2010

KIMMEL & SILVERMAN, P.C.

By: /s/ Craig Thor Kimmel

Craig Thor Kimmel

Attorney ID # 57100

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